

### REMARKS

By this amendment, claims 4, 8, and 23-25 are pending in this application. Applicants appreciate the Examiner's indication of allowable subject matter in the Office Action of May 8, 2003. Accordingly, each claim found to include allowable subject matter is now in independent form and includes the limitations of any base claim or intervening claim. Further, various minor typographical errors have been addressed herein.

Claims 4 and 8 have been indicated to be allowable if rewritten to overcome the rejection under 35 USC 112, second paragraph. Explicit support for these amendments is found on pages 18-19 of the present specification, particularly with regard to the manners for holding the main body of the thermometer when the eardrum position of the subject person is either more toward the front side of their head or the back side of their head.

Claims 23 and 25 are rejected under 35 USC 103(a) over Konno. The rejection is respectfully traversed for the following reasons. Claim 23 recite that "the main body comprises an indicator surface" and that "the indicator surface comprises a plurality of surfaces arranged substantially symmetrically with respect to a reference plane containing a center axis of the probe" (emphasis added). As the Examiner states in the Action, Konno discloses a switch that may act as an indicator. The switch, however, cannot be viewed as a "plurality of surfaces arranged substantially symmetrically with respect to a reference plane containing a center axis of the probe". Even if multiple switches were employed, there is no suggestion within Konno to arrange such switches in the manner recited in claim 23. For this reason, Konno does not disclose each feature of claim 23 and the rejection of claim 23 should, therefore, be withdrawn.

Further, with regard to claim 25, applicants submit Figure A (attached hereto) showing Fig. 7 of Konno with the curvature of the back surface superimposed thereon. According to the curvature of the device shown in Kotto, the center of curvature is not "located in the vicinity of a base end of the probe" (recited in claim 25). The device shown by Kotto has a center of curvature

at the tip-end of the probe. Therefore, Kotto does not disclose this feature of claim 25. The rejection of claim 25 should, therefore, also be withdrawn.


For these reasons, all pending claims are in condition for allowance and a notice thereof is earnestly solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 482842000500.

Respectfully submitted,

Dated: August 26, 2004

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